

REMARKS

Claims 4-6 and 45-47 are pending and have been amended. Reconsideration and allowance are respectfully requested.

Oath/ Declaration

The declaration was objected to because it does not provide a post office address and is not signed. A declaration meeting these requirements was filed (as part of the Response to Notice to File Missing Parts of Nonprovisional Application, filed May 29, 2002), but is not listed in PAIR. A copy is being filed again with this Amendment.

Claim Objections

Claims 4-6 and 45-47 were objected to because of informalities.

Applicant has made numerous changes to these claims to address these objections. No new matter has been added. All amendments are based on features that were expressly or inherently disclosed.

The Examiner stated that his suggested amendments are not required. This is appreciated. Applicant has therefore made some changes which are different from those suggested. For example, claims 4-6 have been amended to specify that the program with the highest profit amount is identified based on the comparison of the calculated profits for each. This does not necessarily require a ranking and these claims have not been so limited.

The claims now recited what Applicants regard as their invention and are believed to be reasonably clear.

Claim Rejections – 35 USC § 112

Claims 4-6 and 45-47 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim Rejections – 35 USC § 103

Claims 4-6 and 45-47 were rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Pat. Pub. 2002/0107765) in view of Sheets (US Pat. Pub 2001/0049653). As amended, this rejection is respectfully traversed and reconsideration is requested.

Claim 4 is directed to a method for selecting and communicating which of a plurality of retail finance programs generates a highest calculated profit amount for a particular vehicle. Financial data, a target monthly payment amount, and information about the vehicle are received in computer system as inputs. A database containing information about a plurality of retail finance programs is accessed. A profit amount for each of the plurality of retail finance programs for the vehicle is calculated using the financial data about the customer, the target monthly payment amount, and the information about the vehicle as constraints. The calculated profit

amounts are compared. The retail finance program that has the highest calculated profit amount based on the comparing is selected and communicated to a user through a user interface.

Walker discloses an on-line system for approving credit applications. *See* Abstract. Each finance option is ranked on a display screen in order of how much revenue it would bring the dealership. Par. 0065. In another embodiment, the “most advantageous” loan program is indicated. *Id.*

As recognized by the Examiner, however Walker does not disclose using a target monthly payment amount as a restraint in the calculation, as required by claim 4.

Applicant also disagrees that Walker calculates the profit of each finance program, as also required by claim 4. In one embodiment, Walker looks at “revenue.” ¶ [0065]. Revenue is not profit. In another embodiment, Walker looks at the “most advantageous” program. *Id.* This is a generic phrase having numerous species.

Sheets does not make up for these deficiencies. Sheets discloses a system for matching customers with products in inventory. *See* Abstract. Vehicles that would require a monthly payment outside of a specified range are not listed. *See* Par. 0035. Unlike claim 4, however, Sheets does not calculate a profit for a finance program, let alone for a plurality of finance programs. Sheets also does not compare finance programs, and Sheets does not report which finance program yields the highest profit. Indeed, Sheet is not even concerned with finding the most profitable finance program.

The examiner nevertheless urges that it would have been obvious to have modified Walker to have included these teachings from Sheets. Applicants respectfully disagree.

Applicants also respectfully disagree that such a modification would have resulted in the invention of claim 4.

The Examiner argues that the skilled artisan would have been motivated to have modified Walker to have included the teachings from Sheets “to provide customers with information they want and need.” However, the purpose of Walker is to identify “which loan is better for the dealership.” ¶ [0074]. If loans that do not meet a target monthly payment are eliminated from the analysis, the most advantageous loan for the dealership may not be identified. The fact that the most advantageous loan may require a monthly payment higher than a target in no way demonstrates that it would be rejected by the customer, especially if the difference is small. In fact, Walker’s purpose of identifying “which loan is better for the dealership” actually teaching away from the invention of claim 4. Similarly, Sheet’s purpose “to provide customers with information they want and need” would again lead the skilled artisan into not looking at its teaching when deciding how to best identify “which loan is better for the dealership” – the stated purpose of Walker.

Applicants also disagree that Walker “suggests a need for an improvement” to his system, as also urged by the Examiner. The paragraphs of Walker on which the Examiner relies for this proposition (paragraphs [0004] and [0006]) are in the “Description of Related Arts” section of Walker. The Walker system – a system that operates without a monthly payment constraint – was obviously intended to provide this improvement. To be sure, nowhere does Walker indicate that *his invention* needs improvement.

Modifying Walker to include the teachings of Sheets would also not result in the invention of claim 4. Sheets matches vehicles to a customer, while Walker selects the most

advantageous finance program. Combining the two would result in a system that does both, not in a system that determines “which of a plurality of retail finance programs generates a highest calculated profit amount for a particular vehicle” by “handling the . . . target monthly payment amount . . . [a]s constraint[.]” Only impermissible hindsight could result in the mutation of this combination which the Examiner proposes. Even the mutation urged by the Examiner, moreover, would still not identify the finance program that yields the greatest profit, as not even Walker calculates profit, as noted above.

Claims 5 and 6 contain limitations similar to those that distinguish claim 4 from Walker and Sheets and thus are also patentable in view of them.

Claims 45-47 are dependent upon claims 4, 5 or 6 and thus are also patentable in view of these references for the same reasons. These claims also constrain the selection of a finance program by the amount of cash available from the customer for an initial payment. This further distinguishes these claims from the applied art. Although the Examiner has also rejected these dependent claims based on Walker and Sheets, the Examiner does not explain why this additional feature of claims 45-47 fails to patentably distinguish these claims from Walker and Sheets. Thus, a *prima facie* showing of obviousness has not been established in connection with these claims.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance.

To the extent necessary, a further petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this

paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account.

Respectfully submitted,

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